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DEPT. OF TRANSPORTATION
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International Air Transport Association

Washington Office

November 17, 1995

Montreal / Geneva

Mr. Donald H. Horn
Assistant General Counsel
for International Law, C-20
Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

OST-95-232-11

Dear Mr. Horn:

This is a further report on IATA efforts to secure an intercarrier agreement to supplement the passenger liability provisions of the Warsaw Convention.

In my letter to you of October 18, I reported on what IATA had done to support the work of the Airline Liability Conference in June 1995 and transmitted copies of a draft Intercarrier Agreement and a Draft AGM Resolution endorsing the Intercarrier Agreement, both of which were to be submitted to IATA's 51st Annual General Meeting for consideration.

The Intercarrier Agreement and the Draft Resolution were endorsed by IATA's Executive Committee on the 29th of October and submitted to the Annual Meeting on the 30th of October. The Resolution was adopted without dissent and a number of airline Chief Executive Officers signed the Intercarrier Agreement at a special session held immediately after the close of the meeting. I am enclosing copies of both documents for your records.

Consistent with the terms of Orders 95-2-44 and 95-7-15, IATA intends to file the Intercarrier Agreement for the Department's review and approval as soon as a substantial number of airlines have signed it.

Sincerely,

A handwritten signature in cursive script that reads "David M. O'Connor".

David M. O'Connor
Regional Director, US

Enclosure

cc: Ms. Jennifer Richter, Dept. of State
Mr. Gary Allen, Dept. of Justice
Mr. Lorne Clark, General Counsel, IATA

**FINAL RESOLUTION ADOPTED AT
THE 51ST ANNUAL GENERAL MEETING OF IATA
KUALA LUMPUR, 29 OCTOBER - 1 NOVEMBER 1995**

**I. INTERCARRIER AGREEMENT ON PASSENGER LIABILITY AND
1975 MONTREAL PROTOCOL 4 ON CARGO**

WHEREAS: The uniform rules provided by the 1929 Warsaw Convention are essential to the efficient international carriage of passengers and cargo, and are of great benefit to passengers, shippers and the airline industry;

WHEREAS: Governments have not been able to adopt binding modifications to the Warsaw Convention, in particular with respect to the liability regime, since entry into force of the 1955 Hague Protocol;

WHEREAS: International airlines have previously acted together to enhance the applicable liability regime to the benefit of passengers;

Taking Into Account the elaboration of a new Intercarrier Agreement on Passenger Liability pursuant to the decision of the Airline Liability Conference held in Washington DC 19-23 June 1995; and

NOTING THAT the IATA Legal Advisory Group has recommended endorsement of the new Agreement;

The 51st Annual General Meeting

CALLS upon Member airlines to sign the Intercarrier Agreement on Passenger Liability and seek the requisite governmental approvals as soon as possible;

CALLS upon governments to provide such approvals expeditiously so that the Agreement can be brought into force by 1 November 1996 or as soon as possible thereafter; and

URGES States that have not done so to become Parties to the 1975 Montreal Protocol 4.



INTERCARRIER AGREEMENT ON PASSENGER LIABILITY

WHEREAS: The Warsaw Convention system is of great benefit to international air transportation; and

NOTING THAT: The Convention's limits of liability, which have not been amended since 1955, are now grossly inadequate in most countries and that international airlines have previously acted together to increase them to the benefit of passengers;

The undersigned carriers agree

1. To take action to waive the limitation of liability on recoverable compensatory damages in Article 22 paragraph 1 of the Warsaw Convention* as to claims for death, wounding or other bodily injury of a passenger within the meaning of Article 17 of the Convention, so that recoverable compensatory damages may be determined and awarded by reference to the law of the domicile of the passenger.
2. To reserve all available **defences** pursuant to the provisions of the Convention; nevertheless, any carrier may waive any defence, including the waiver of any defence up to a specified monetary amount of recoverable compensatory damages, as circumstances may warrant.
3. To reserve their rights of recourse against any other person, including rights of contribution or indemnity, with respect to any sums paid by the carrier.
4. To encourage other airlines involved in the international carriage of passengers to apply the terms of this Agreement to such carriage.
5. To implement the provisions of this Agreement no later than 1 November 1996 or upon receipt of requisite government approvals, whichever is later.

. "WARSAW CONVENTION" as used herein means the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Warsaw, 12th October 1929, or that Convention as amended at The Hague, 28th September 1955, whichever may be applicable.

6. That nothing in this Agreement shall affect the rights of the passenger or the claimant otherwise available under the Convention.

7. That this Agreement may be signed in any number of counterparts, all of which shall constitute one Agreement. Any carrier may become a party to this Agreement by signing a counterpart hereof and depositing it with the Director General of the International Air Transport Association (IATA).

8. That any carrier party hereto may withdraw from this Agreement by giving twelve (12) months' written notice of withdrawal to the Director General of IATA and to the other carriers parties to the Agreement.

Signed this ____ day of _____ 199:

_____	_____
_____	_____
_____	_____
_____	_____